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COVER STORY

San Francisco firm starts cannabis practice group

By Joshua Sebold
Daily Journal Staff Writer

Farella Braun + Martel LLP announced Wednesday that the firm is formally launching a cannabis industry practice group, making it one of the largest and most prominent firms to wade into a practice area still widely viewed as controversial from a legal marketing perspective.

Ryan Lowther, a business and transactions partner at Farella, will lead the firm's practice, which he envisions will largely function as an outside general counsel to marijuana-related businesses, giving clients access to a full range of services such as labor and employment, intellectual property and environmental legal advice.

Lowther said the practice has strong similarities to the firm's prominent wine and alcohol industry group, another highly regulated sector. He said the maturing marijuana industry will also run into similar branding disputes related to intellectual property that have beset the wine and craft beer industries.

The firm already represents clients throughout the food chain of the cannabis industry, from growers to dispensaries and manufacturers of specialty items like marijuana-infused food products.

"We represent the full gamut," he said. "We have one client that's a hedge fund solely focused on cannabis-based businesses."

Lara Leslie DeCaro, a partner with Leland, Parachini, Steinberg, Matzger & Melnick LLP and founding member of the National Cannabis Bar Association, said this was exactly the point of launching the bar organization last June.

She wanted to fight the stigma of performing legal work for marijuana-related business and bring more



Dominic Fracassa / Daily Journal

Ryan Lowther will lead Farella Braun + Martel LLP's cannabis industry practice group, a firm that is dipping its toe in the water of what has been an industry that has spooked many established attorneys.

traditional corporate attorneys into the sector.

DeCaro said decriminalization of marijuana in California and legalization in Colorado and Washington state have brought cannabis workers out of the shadows.

The general public is "realizing the people working in this industry are not lepers or criminals, they're the average Joe," she said.

DeCaro said up until recently, the primary attorneys willing to take on cannabis-related legal work were criminal attorneys who already handled related matters. This meant criminal attorneys were often learning business law on the fly to accommodate client demand.

Lowther said he started out representing a local dispensary in the Bay Area and quickly saw the potential for building a practice around the highly regulated industry.

"It's about 40 percent of what I do now and it has been over the last two years," he said.

Lowther said one of the largest difficulties for cannabis-related business is the continued reticence by large banks to open accounts for what they view as controversial or risky investments. But that's just the beginning of the roadblocks in the industry.

"The tax regime treats them very unfairly basically because it's a controlled substance," he said. "They can't take normal business deductions."

Lowther said one client, Poseidon Asset Management, which focuses purely on investment in cannabis-related businesses, is an outlier at the moment, partly because many investors are both concerned about the perceived risk in the industry and the reality that marijuana is not your typical retail product.

"You have to make sure in the industry you invest, you actually want to take the asset if it's foreclosed upon," he said.

But despite market uncertainties,

California's legal marijuana industry continues to grow at a robust pace. On Tuesday, ArcView Market Research, a firm tracking marijuana-related business activity, reported that the "California cannabis market generated an estimated \$2.7 billion in sales in 2015."

California is also "responsible for 62 percent of the country's total medical cannabis sales in 2015," the firm reported.

But Lowther is hopeful that a package of recent legislative changes related to marijuana, known collectively as the Medical Marijuana Regulation and Safety Act, passed in September, will further normalize the industry.

Daniel B. Beck, founding partner of Beck Law PC, which has a long-established cannabis industry practice, agreed that a watershed moment is about to occur due to the regulatory changes, which he predicted would soon pull in even larger firms.

"What we're going to be experiencing is the largest economic and cultural revolution since Silicon Valley," he said. "In some counties, 60 to 70 percent of the adult workforce is involved in the cannabis trade already."

Beck said one interesting facet of the new legislation is that it will require all marijuana business with 20 or more employees to comply with the labor act regulating farm workers, meaning collective bargaining will be mandatory.

He said the new regulations would take some of the uncertainty out of running marijuana businesses and speed the growth of that economy, but legitimization will come along with a watchful regulatory eye.

"What the statutory scheme does is essentially set up the scenario where all roads lead to lawyers."